

Pending MSRC Cases

To locate an individual quickly, click on the binoculars and type in the name.

1. **Rick L. Broughton v. OMSL**, No. 07-MSRC-207 (Barbourville): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: ACTIVE** – Hearing scheduled for November 8, 2007.
2. **Rick Wright v. OMSL**, No. 07-MSRC-206 (Pikeville): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: ACTIVE** – Hearing scheduled for November 8, 2007.
3. **Clarence Ward v. OMSL**, No. 07-MSRC-205 (Pikeville): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: ACTIVE** – Hearing scheduled for November 8, 2007.
4. **OMSL v. James E. Lewis**, No. 07-MSRC-203 (Martin): Motion for Show Cause filed by OMSL on August 28, 2007. Lewis failed to file appeal after suspension of his certificate(s). **STATUS: ACTIVE** – Hearing scheduled for November 8, 2007.
5. **Billy J. Ratliff v. OMSL**, No. 07-MSRC-204 (Martin): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: ACTIVE** – Hearing scheduled for November 8, 2007.
6. **OMSL v. David T. McDaniels**, No. 07-MSRC-201 (Harlan): Motion for Show Cause filed by OMSL on August 28, 2007. McDaniels failed to file appeal after suspension of his certificate(s). **STATUS: ACTIVE** – Hearing scheduled for November 8, 2007.
7. **OMSL v. Ricky Niece**, No. 07-MSRC-200 (Hazard): Motion for Show Cause filed by OMSL on August 28, 2007. Niece failed to file appeal after suspension of his certificate(s). **STATUS: ACTIVE** – Hearing scheduled for November 8, 2007.
8. **Timothy A. Young v. OMSL**, No. 07-MSRC-199 (Madisonville): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: ACTIVE** – Hearing scheduled for November 8, 2007.
9. **Charles E. Johnson v. OMSL**, No. 07-MSRC-196 (Pikeville): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: ACTIVE** – Hearing scheduled for November 8, 2007.
10. **Johnny Keith Stacy, Jr. v. OMSL**, No. 07-MSRC-195 (Hazard): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Stacy provided the OMSL with evidence. Commission entered an Order on October 12, 2007 dismissing Mr. Stacy's appeal and restoring his certificates.
11. **Quinnton C. Combs v. OMSL**, No. 07-MSRC-194 (Hazard): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: ACTIVE** – Hearing scheduled for November 8, 2007.
12. **John E. Hurst v. OMSL**, No. 07-MSRC-193 (Harlan): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: ACTIVE** – Hearing scheduled for November 8, 2007.
13. **Richard R. Wright v. OMSL**, No. 07-MSRC-192 (Martin): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: ACTIVE** – Hearing scheduled for November 8, 2007.

14. **Kevin S. Collins v. OMSL**, No. 07-MSRC-191 (Hazard): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: ACTIVE** – Hearing scheduled for November 8, 2007.
15. **Benny Bryan Adams v. OMSL**, No. 07-MSRC-190 (Hazard): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: ACTIVE** – Hearing scheduled for November 8, 2007.
16. **Daniel A. Bryant v. OMSL**, No. 07-MSRC-189 (Harlan): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: ACTIVE** – Hearing scheduled for November 8, 2007.
17. **OMSL v. Roger Banks**, No. 07-MSRC-188 (Hazard): Complaint filed September 10, 2007, against Mr. Banks, the Maintenance Foreman at the Sapphire UZ mine. A state inspection revealed that work was being performed on equipment while the power source was still energized and had not been locked and tagged. OMSL's complaint asks that his underground mine foreman and electrical instructor certificates be suspended for a period of one year, that his electrical worker certificate be suspended for the remaining period of its effectiveness, and for a two-year probation of his other certifications. **STATUS: ACTIVE** – Probable Cause to be decided by the Commission on November 8, 2007.
18. **OMSL v. Dickie Cantrell**, No. 07-MSRC-187 (Martin): Complaint filed September 10, 2007, against Mr. Cantrell, the former mine foreman at the Genesis Coal Corporation No. 1 mine. This is an MSHA referral after Cantrell fired the only MET for the mine, then quit his job and left the mine property without withdrawing the underground workers from the mine, and leaving the mine with no certified mine foreman or certified MET. OMSL's complaint asks that Cantrell's underground mine foreman certificate be suspended for a period of one year, and for a two-year probation of his other certifications. **STATUS: ACTIVE** – Probable Cause to be decided by the Commission on November 8, 2007.
19. **OMSL vs. Willard R. Harmon**, No. 07-MSRC-186 (Barbourville): Complaint filed September 17, 2007. This action was brought by OMSL requesting permanent revocation of the Defendant's shot firer-conventional, shot firer-solid blasting and driller certificates and suspension of his underground miner and gas detection certificates for one year. Mr. Harmon was the shot firer at the MyJoy Coal No. 1 mine in Knox County when he detonated a blast underground that blew through and injured another miner. **STATUS: ACTIVE** – The Mine Safety Review Commission will determine whether probable cause exists for the matter to continue on November 8, 2007.
20. **Mickey Jackson v. OMSL**, No. 07-MSRC-185 (Hazard): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: ACTIVE** – Hearing scheduled for November 8, 2007.
21. **Paul D. Woods v. OMSL**, No. 07-MSRC-184 (Pikeville): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: ACTIVE** – Hearing scheduled for November 8, 2007.
22. **French P. Holbrook v. OMSL**, No. 07-MSRC-183 (Hazard): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: ACTIVE** – Hearing scheduled for November 8, 2007.
23. **Michael Beverly v. OMSL**, No. 07-MSRC-182 (Hazard): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: ACTIVE** – Hearing scheduled for November 8, 2007.

24. **OMSL v. Darryl Owen McNary**, No. 07-MSRC-175 (): Motion for Show Cause filed by OMSL on August 28, 2007. McNary failed to file appeal after suspension of his certificate(s). **STATUS: CONCLUDED** – Hearing scheduled for September 21, 2007. McNary failed to appear. On September 21, 2007, the Commission entered an Order revoking McNary's certificates.
25. **OMSL v. Willis Lewis, Jr.**, No. 07-MSRC-174 (Martin): Motion for Show Cause filed by OMSL on August 28, 2007. Lewis failed to file appeal after suspension of his certificate(s). **STATUS: ACTIVE** – Hearing scheduled for November 8, 2007.
26. **OMSL v. William Henry Lewis**, No. 07-MSRC-173 (Barbourville): Motion for Show Cause filed by OMSL on August 28, 2007. Lewis failed to file appeal after suspension of his certificate(s). **STATUS: ACTIVE** – Hearing scheduled for November 8, 2007.
27. **Anthony Bledsoe v. OMSL**, No. 06-MSRC-090 (Harlan): On August 31, 2007, OMSL filed a Notice-Motion for Sanction. Bledsoe failed to submit drug tests to the OMSL since June, 2007. **STATUS: CONCLUDED** – Hearing scheduled for September 21, 2007. Bledsoe did not respond or appear at the hearing. On September 21, 2007, the Commission entered an Order permanently revoking Bledsoe's certificates.
28. **OMSL v. Jerry Maggard**, No. 07-MSRC-088 (Pikeville): Complaint filed May 16, 2007. This action was brought by OMSL requesting revocation of Maggard's underground mine foreman's certificates for three years and suspension of his underground coal miner, shot firer-solid blasting, shot firer-conventional and drill operator certificates for three years. Mr. Maggard was the superintendent at the Tri-Star Coal LLC's Mine No. 1 at the time that roof control violations inside the mine resulted in a roof fall that caused the death of David Chad Bolen. **STATUS: ACTIVE** – The Mine Safety Review Commission found Probable Cause on June 14, 2007. The Hearing is scheduled for November 8, 2007.
29. **Blake R. Bondurant v. OMSL**, No. 07-MSRC-083 (Madisonville): On October 19, 2007, OMSL filed a Notice-Motion for Sanction. Bondurant failed to submit drug tests to the OMSL since August, 2007. **STATUS: ACTIVE** – Hearing scheduled for November 8, 2007.
30. **Teddy R. Green v. OMSL**, No. 06-MSRC-083 (Harlan): On August 31, 2007, OMSL filed a Notice-Motion for Sanction. Green failed to submit drug tests to the OMSL since May, 2007. **STATUS: ACTIVE** – Hearing scheduled for September 21, 2007. Green did not respond or appear at the hearing. On September 21, 2007, the Commission entered an Order permanently revoking Green's certificates. Green notified the Commission and asked for reconsideration. Hearing is scheduled for November 8, 2007.
31. **James E. Scott, Jr. v. OMSL**, No. 06-MSRC-079 (Pikeville): On August 31, 2007, OMSL filed a Notice-Motion for Sanction. Scott failed to submit drug tests to the OMSL since May, 2007. **STATUS: CONCLUDED** – Hearing scheduled for September 21, 2007. Scott did not respond or appear at the hearing. On September 21, 2007, the Commission entered an Order permanently revoking Scott's certificates.
32. **William K. Jervis v. OMSL**, No. 07-MSRC-008 (Harlan): On October 19, 2007, OMSL filed a Notice-Motion for Sanction. Jervis failed to submit drug tests to the OMSL since June, 2007. **STATUS: ACTIVE** – Hearing scheduled for November 8, 2007.
33. **Albert J. Kilburn v. OMSL**, No. 07-MSRC-047 (Hazard): On October 19, 2007, OMSL filed a Notice-Motion for Sanction. Kilburn failed to submit drug tests to the OMSL since July, 2007. **STATUS: ACTIVE** – Hearing scheduled for November 8, 2007.
34. **Brian D. Green v. OMSL**, No. 07-MSRC-005 (Harlan): On October 19, 2007, OMSL filed a Notice-Motion for Sanction. Green failed to submit drug tests to the OMSL since August, 2007. **STATUS: ACTIVE** – Hearing scheduled for November 8, 2007.

35. **Joshua D. Johnson v. OMSL**, No. 07-MSRC-179 (Hazard): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Hearing scheduled for September 21, 2007. Settlement Agreement approved by the Commission on September 21, 2007. Probation of underground miner and temporary surface miner certificates for one year, submit a drug abuse assessment prior to reinstatement and drug testing twice per month for first three months and every 30 days for remainder of probationary period. On September 27, 2007, the Board reinstated Johnson's certificates.
36. **Herman Chad Hackney v. OMSL**, No. 07-MSRC-178 (Pikeville): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Hearing scheduled for September 21, 2007. Settlement Agreement approved by the Commission on September 21, 2007. Probation of underground miner, surface miner and gas detection certificates for one year, suspension of electrical worker's certificate during probationary period and drug testing every 30 days. On September 27, 2007, the Board reinstated Hackney's certificates.
37. **Billy J. Bartley v. OMSL**, No. 07-MSRC-177 (Pikeville): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: ACTIVE** – Hearing scheduled for September 21, 2007. Settlement Agreement approved by the Commission on September 21, 2007. Probation of underground miner, gas detection and first aid certificates for one year, submit a drug abuse assessment prior to reinstatement and drug testing every 30 days. Reinstatement pending Board approval.
38. **Paul T. Chaffin v. OMSL**, No. 07-MSRC-176 (Martin): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: ACTIVE** – Hearing scheduled for September 21, 2007. Settlement Agreement approved by the Commission on September 21, 2007. Probation of surface miner and gas detection certificates for one year, submit a drug abuse assessment prior to reinstatement and drug testing every 30 days. Reinstatement pending Board approval.
39. **Jason W. Slaton v. OMSL**, No. 07-MSRC-172 (Madisonville): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: ACTIVE** – Hearing scheduled for September 21, 2007. Settlement Agreement approved by the Commission on September 21, 2007. Probation of underground miner certificate for one year, submit a drug abuse assessment prior to reinstatement and drug testing twice per month for first three months of probationary period and every 30 days for remainder of probationary period. Reinstatement pending Board approval.
40. **Joshua R. Meade v. OMSL**, No. 07-MSRC-171 (Pikeville): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: ACTIVE** – Hearing scheduled for September 21, 2007. On September 21, 2007, the Commission entered an Order continuing this matter to October 11, 2007. On October 10, 2007, the Commission entered an Order continuing this matter to November 8, 2007. Mr. Meade's counsel contacted the Commission and asked for a continuance. Mr. Meade is in treatment. Hearing is scheduled for January 10, 2008.
41. **Ricky Howell v. OMSL**, No. 07-MSRC-168 (Martin): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: ACTIVE** – Hearing scheduled for September 21, 2007. Settlement Agreement approved by the Commission on September 21, 2007. Probation of surface miner and underground miner certificates for one year, submit a drug abuse assessment prior to reinstatement and drug testing every 30 days. Reinstatement pending Board approval.
42. **Anthony Longworth v. OMSL**, No. 07-MSRC-166 (Hazard): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Hearing

scheduled for September 21, 2007. After an investigation by the OMSL, Longworth withdrew his appeal. On August 27, 2007, the Commission entered an Order dismissing this matter.

43. **Anthony Moore v. OMSL**, No. 07-MSRC-165 (Pikeville): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Hearing scheduled for September 21, 2007. Settlement Agreement was approved by the Commission on September 21, 2007. Probation of underground miner and gas detection certificates for one year, suspension of emergency mine technician certificate during probationary period, submit a drug abuse assessment prior to reinstatement and drug testing every 30 days. On September 27, 2007, the Board reinstated Moore's certificates.
44. **Wiley J. Roberts v. OMSL**, No. 07-MSRC-149 (Hazard): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: ACTIVE** – Hearing scheduled for September 21, 2007. Roberts failed to appear. On October 10, 2007, the Commission entered an Order. Roberts must appear and show cause why his certificate should not be revoked. Hearing scheduled for November 8, 2007.
45. **John E. Copely v. OMSL**, No. 07-MSRC-152 (Pikeville): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Hearing scheduled for September 21, 2007. Copely did not appear. On September 21, 2007, the Commission entered an Order dismissing Copely's appeal.
46. **Brian J. Morris v. OMSL**, No. 07-MSRC-150 (Hazard): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: ACTIVE** – Hearing scheduled for September 21, 2007. Morris enrolled in treatment. This matter was continued to November 8, 2007.
47. **Greeley Hurley, Jr. v. OMSL**, No. 07-MSRC-164 (Pikeville): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Hearing scheduled for September 21, 2007. After hearing testimony and receiving evidence, the Commission entered an Order sustaining Hurley's appeal. On September 21, 2007, Hurley's certificates were restored.
48. **OMSL v. D & R Coal, Inc.**, No. 07-MSRC-153 (Barbourville): Final Order entered August 9, 2007. D & R agrees to pay a \$5,000 civil penalty for roof control violation. **STATUS: ACTIVE** – Payments being made
49. **Blue Diamond Coal Co. v. OMSL**, No. 07-MSRC-167 (Barbourville): Appeal filed by Blue Diamond challenging penalty assessment for roof control violations. **STATUS: ACTIVE** – Hearing set for February 14, 2008.
50. **OMSL v. William Henry Harris**, No. 07-MSRC-143 (Barbourville): Disciplinary action against mine foreman for allowing roof bolter to work under unsupported roof that fell resulting in the employee's death. Probable cause found by the Commission on August 9, 2007. **STATUS: ACTIVE** – Hearing set January 10, 2008.
51. **OMSL v. Richard Lee Caudill, Jr.**, No. 07-MSRC-139 (Pikeville): Motion for Show Cause filed by OMSL on July 20, 2007 as respondent failed to file appeal after April 17, 2007 suspension of his underground miner certification and gas detection miner certification. **STATUS: ACTIVE** – Respondent failed to appear at August 9, 2007 OMSL hearing. Commission ordered revocation of certifications at that time. On August 29, 2007, Caudill called and stated that he failed to receive notices, that he had a change of address and wish to enter into a settlement agreement. Hearing scheduled for November 8, 2007.
52. **OMSL v. Bobby Gene Charles, Jr.**, No. 07-MSRC-138 (Pikeville): Motion for Show Cause filed by OMSL on July 20, 2007 as respondent failed to file appeal after March 15, 2007 suspension of

his temporary underground miner certification and surface miner certification. **STATUS: CONCLUDED** – Respondent failed to appear at August 9, 2007 OMSL hearing. Commission ordered revocation of certifications at that time and respondent has thirty days within which to appeal.

53. **OMSL v. Marcus Eugene Combs**, No. 07-MSRC-137 (Barbourville): Motion for Show Cause filed by OMSL on July 20, 2007 as respondent failed to file appeal after February 23, 2007 suspension of his surface miner certification. **STATUS: CONCLUDED** – Respondent failed to appear at August 9, 2007 OMSL hearing. Commission ordered revocation of certification at that time and respondent has thirty days within which to appeal.
54. **OMSL v. Joseph Daniel Cook**, No. 07-MSRC-136 (Pikeville): Motion for Show Cause filed by OMSL on July 20, 2007 as respondent failed to file appeal after February 28, 2007 suspension of his temporary underground miner certification. **STATUS: CONCLUDED** – Respondent failed to appear at August 9, 2007 OMSL hearing. Commission ordered revocation of certification at that time and respondent has thirty days within which to appeal.
55. **OMSL v. Cody Lee Denton**, No. 07-MSRC-135 (Madisonville): Motion for Show Cause filed by OMSL on July 20, 2007 as respondent failed to file appeal after February 13, 2007 suspension of his underground miner certification. **STATUS: CONCLUDED** – Respondent failed to appear at August 9, 2007 OMSL hearing. Commission ordered revocation of certification at that time and respondent has thirty days within which to appeal.
56. **OMSL v. Michael Anderson**, No. 07-MSRC-154 (Hazard): Motion for Show Cause filed by OMSL on August 1, 2007 as respondent failed to file appeal after May 17, 2007 suspension of his underground miner certification. **STATUS: ACTIVE** – Case set to be heard at November 8, 2007 Commission meeting.
57. **OMSL v. Bryon Keith Bowles**, No. 07-MSRC-151 (Madisonville): Motion for Show Cause filed by OMSL on July 27, 2007 as respondent failed to file appeal after May 5, 2007 suspension of his assistant mine foreman, underground mine foreman, and underground miner certifications. **STATUS: CONCLUDED** – Respondent called and indicated an interest in settlement. Case to be heard at September 21, 2007 Commission meeting. Settlement Agreement approved by the Commission on September 21, 2007. Probation of underground miner certificate for one year, suspension of assistant mine foreman and underground mine foreman certificates during probationary period, submit a drug abuse assessment prior to reinstatement and drug testing every 30 days. On September 27, 2007, the Board reinstated Bowles' certificate.
58. **OMSL v. Alonzo F. Fugate**, No. 07-MSRC-098 (Hazard): Motion for Show Cause filed by OMSL on June 4, 2007 as respondent failed to file appeal after February 22, 2007 suspension of his general blaster (currently expired); MET ; surface mine foreman , and surface miner certifications. **STATUS: CONCLUDED** – Case was continued at August 9, 2007 Commission meeting as respondent telephoned and expressed a wish to settle. To be heard at September 21, 2007 Commission meeting. Fugate failed to appear. On September 21, 2007, the Commission entered an order revoking Fugate's certificates.
59. **OMSL v. CAM Mining, LLC & Roy Cleatis Rowland**, No. 07-MSRC-126 (Pikeville): Complaint against CAM and the foreman for failure to give timely notice of a fatal accident on mine property. Probable cause found by the Commission on August 9, 2007. **STATUS: ACTIVE** – Hearing set for December 13, 2007.
60. **OMSL v. Hendrickson Equipment, Inc. & James Hylton**, No. 07-MSRC-100 (Hazard): Complaint against CAM and the foreman for failure to give timely notice of a fatal accident on mine property. Probable cause found by the Commission on June 14, 2007. **STATUS: ACTIVE** – Hearing set for February 14, 2008.

61. **OMSL v. Jeffrey Wayne Noble**, No. 07-MSRC-163 (Hazard): Failed to appeal certification suspension due to reported violation of drug-free status. **STATUS: ACTIVE** – Scheduled for a show cause hearing on November 8, 2007.
62. **OMSL v. Billy J. Sexton**, No. 07-MSRC-162 (Hazard): Failed to appeal certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Scheduled for a show cause hearing on September 21, 2007. Sexton has been in contact with OMSL and wishes to have certificates restored. Settlement Agreement approved by the Commission on September 21, 2007. Probation of underground miner certificate for one year, submit a drug abuse assessment prior to reinstatement and drug testing every 30 days. On September 27, 2007, the Board reinstated Sexton's certificate.
63. **OMSL v. Oral Wade Hoskins**, No. 07-MSRC-144 (Hazard): Notice-Motion for Show Cause Order to revoke gas detection and underground miner's certificates. **STATUS: CONCLUDED** – It is scheduled to be heard September 21, 2007. Hoskins did not appear. On September 21, 2007, the Commission entered an Order revoking Hoskins' certificates.
64. **OMSL v. James R. Housley**, No. 07-MSRC-145 (Harlan): Notice-Motion for Show Cause Order to revoke gas detection, surface miner and underground miner's certificates. **STATUS: CONCLUDED** – It is scheduled to be heard September 21, 2007. Housley did not appear. On September 21, 2007, the Commission entered an Order revoking Housley's certificates.
65. **OMSL v. Adam L. Isaac**, No. 07-MSRC-146: (District Not Reported) Notice-Motion for Show Cause Order to revoke underground miner's certificate. **STATUS: CONCLUDED** – It is scheduled to be heard September 21, 2007. Isaac did not appear. On September 21, 2007, the Commission entered an Order revoking Isaac's certificates.
66. **OMSL v. Mickey D. Ison**, No. 07-MSRC-147: (District Not Reported) Notice-Motion for Show Cause Order to revoke gas detection, MET and underground miner's certificate. **STATUS: CONCLUDED** – It is scheduled to be heard September 21, 2007. Settlement Agreement approved by the Commission on September 21, 2007. Probation of underground miner, gas detection and MET certificates for one year, submit a drug abuse assessment prior to reinstatement and drug testing every 30 days. Reinstatement pending Board approval.
67. **OMSL v. Robert Joseph IV**, No. 07-MSRC-148 (Hazard): Notice-Motion for Show Cause Order to revoke underground miner's certificate. **STATUS: CONCLUDED** – It is scheduled to be heard September 21, 2007. Joseph did not appear. On September 21, 2007, the Commission entered an Order revoking Joseph's certificate.
68. **OMSL v. Shawn David Moore**, 07- MSRC-159 (Martin): Failed to appeal certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Scheduled for a show cause hearing on September 21, 2007. Have been contacted; appearance at hearing likely. Settlement Agreement approved by the Commission on September 21, 2007. Probation of underground miner certificate for one year, submit a drug abuse assessment prior to reinstatement and drug testing every 30 days. Reinstatement pending Board approval.
69. **OMSL v. Howie Joe Young**, 07-MSRC-161 (Madisonville): Failed to appeal certification suspension due to reported violation of drug-free status (positive test). **STATUS: ACTIVE** – Scheduled for a show cause hearing on September 21, 2007.
70. **OMSL v. Robert D. Shockey**, 07-MSRC-160 (Hazard): Failed to appeal certification suspension due to reported violation of drug-free status (positive test). **STATUS: CONCLUDED** – Scheduled for a show cause hearing on September 21, 2007. Shockey failed to appear. Commission entered an Order revoking Shockey's certificates on September 21, 2007.

71. **OMSL v. Cova Dale Nantz**, 07-MSRC-158 (Hazard): Failed to appeal certification suspension due to reported violation of drug-free status (positive test). **STATUS: CONCLUDED** – Scheduled for a show cause hearing on September 21, 2007. Nantz failed to appear. On September 21, 2007, the Commission entered an Order revoking Nantz's certificates.
72. **OMSL v. Michael Kent Mullins**, 07-MSRC-157 (Martin): Failed to appeal certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Scheduled for a show cause hearing on September 21, 2007. Mullins failed to appear. On September 21, 2007, the Commission entered an Order revoking Mullins' certificate.
73. **OMSL v. Samuel Lee Napier**, 07-MSRC-156 (Hazard): Failed to appeal certification suspension due to reported violation of drug-free status (positive test). **STATUS: ACTIVE** – Scheduled for a show cause hearing on September 21, 2007. Napier failed to appear. On September 21, 2007, the Commission entered an Order revoking Napier's certificates. On October 17, 2007, Napier contacted the Commission and stated that he did not receive notice of the hearing. Hearing is scheduled for November 8, 2007, for reconsideration.
74. **OMSL v. Devin Shawn Newsome**, 07-MSRC-155 (Martin): Failed to appeal certification suspension due to reported violation of drug-free status (refusal to submit to test). **STATUS: CONCLUDED** – Scheduled for a show cause hearing on September 21, 2007. Newsome failed to appear. On September 21, 2007, the Commission entered an Order revoking Newsome's certificate.
75. **Gary Pendergrass v. OMSL**, No. 07-MSRC-133 (Hazard): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: ACTIVE** – Hearing scheduled for August 9, 2007. Commission granted OMSL's motion to continue. Hearing scheduled for September 21, 2007. Pendergrass contacted the Commission and asked for a continuance. Pendergrass has enrolled in a treatment program. This matter has been continued to April 8, 2008.
76. **Anthony Adams v. OMSL**, No. 07-MSRC-124 (Hazard): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: ACTIVE** – Hearing scheduled for August 9, 2007. Settlement Agreement approved by the Commission on August 9, 2007. Probation of underground miner certificate for one year, submit a drug abuse assessment prior to reinstatement and drug testing every 30 days. Reinstatement pending Board approval.
77. **Phillip Hudson v. OMSL**, No. 07-MSRC-123 (Hazard): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Hearing scheduled for August 9, 2007. Settlement Agreement approved by the Commission on August 9, 2007. Probation of underground miner certificate for one year, submit a drug abuse assessment prior to reinstatement and drug testing every 30 days. On September 27, 2007, the Board reinstated Hudson's certificate.
78. **Joshua Peck v. OMSL**, No. 07-MSRC-122 (Martin): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Hearing scheduled for August 9, 2007. Settlement Agreement approved by the Commission on August 9, 2007. Probation of underground miner and temporary surface miner certificates for one year, suspension of assistant mine foreman and MET certificates during probationary period, submit a drug abuse assessment prior to reinstatement and drug testing every 30 days. On September 27, 2007, the Board reinstated Peck's certificates.
79. **Bobby Greer v. OMSL**, No. 07-MSRC-121 (Hazard): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: ACTIVE** – Hearing scheduled for August 9, 2007. Prior to the Commission approving a settlement agreement, Greer must provide a drug abuse assessment and clean drug test. Commission entered an Order

continuing this matter to September 21, 2007. Greer failed to show. On October 10, 2007, the Commission entered an Order continuing this matter to November 8, 2007.

80. **Carlos Sturgill v. OMSL**, No. 07-MSRC-120 (Harlan): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Hearing scheduled for August 9, 2007. Settlement Agreement approved by the Commission on August 9, 2007. Probation of underground miner and gas detection certificates for one year, suspension of electrical worker certificate during probationary period, submit a drug abuse assessment prior to reinstatement and drug testing every 30 days. On September 27, 2007, the Board reinstated Sturgill's certificates.
81. **Jody Rose v. OMSL**, No. 07-MSRC-119 (Hazard): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: ACTIVE** – Hearing scheduled for August 9, 2007. Rose failed to appear. Commission entered a show cause order for September 21, 2007. Rose failed to appear. On September 21, 2007, the Commission entered an Order revoking Rose's certificate. Rose contacted the Commission and asked for reconsideration. Rose states failure of notice and error. Commission entered a Scheduling Order granting Rose's motion. Hearing scheduled for November 8, 2007.
82. **Fidel Morales v. OMSL**, No. 07-MSRC-118 (Harlan): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Hearing scheduled for August 9, 2007. Settlement Agreement approved by the Commission on August 9, 2007. Probation of underground miner and gas detection certificates for one year, submit a drug abuse assessment prior to reinstatement and drug testing every 30 days. Board reinstated Morales' certificates on August 23, 2007.
83. **Shane Gambrel v. OMSL**, No. 07-MSRC-117 (Harlan): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Hearing scheduled for August 9, 2007. Settlement Agreement was approved by the Commission on August 9, 2007. Probation of underground miner certificate for one year, submit a drug abuse assessment prior to reinstatement and drug testing every 30 days. Board reinstated Gambrel's certificate on August 23, 2007.
84. **Charles Sizemore v. OMSL**, No. 07-MSRC-115 (Harlan): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: ACTIVE** – Hearing scheduled for August 9, 2007. Settlement Agreement was approved by the Commission on August 9, 2007. Probation of underground miner and surface miner certificates for one year, submit a drug abuse assessment prior to reinstatement and drug testing every 30 days. Reinstatement pending Board approval.
85. **William Eldridge v. OMSL**, No. 07-MSRC-114 (Harlan): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: ACTIVE** – Hearing scheduled for August 9, 2007. Settlement Agreement approved by the Commission on August 9, 2007. Probation of underground miner certificate for one year, submit a drug abuse assessment prior to reinstatement and drug testing every 30 days. Reinstatement pending Board approval.
86. **David C. Richardson v. OMSL**, No. 07-MSRC-089 (Madisonville): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: ACTIVE** – Hearing scheduled for June 14, 2007. Richardson asked for a continuance. Commission entered an Order continuing this matter to July 12, 2007. Settlement Agreement was approved by the Commission on July 12, 2007. Probation of underground miner certificate for one year, suspension of shot firer-conventional certificate during probationary period, submit a drug abuse assessment prior to reinstatement and drug testing every 30 days. Reinstatement pending Board approval.

87. **Larry N. Tooley, Jr. v. OMSL**, No. 07-MSRC-111 (Pikeville): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Hearing scheduled for July 12, 2007. Settlement Agreement was approved by the Commission on July 12, 2007. Probation of surface miner certificate for one year, submit a drug abuse assessment prior to reinstatement and drug testing every 30 days. Board reinstated Tooley's certificate on August 23, 2007.
88. **Jerry D. Morgan, Jr. v. OMSL**, No. 07-MSRC-110 (Hazard): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: ACTIVE** – Hearing scheduled for July 12, 2007. Settlement Agreement was approved by the Commission on July 12, 2007. Probation of underground miner certificate for one year, submit a drug abuse assessment prior to reinstatement and drug testing every 30 days. Board reinstated Morgan's certificate on August 23, 2007. On October 19, 2007, OMSL filed a Notice-Motion for Sanctions. Morgan has not submitted a drug test to the OMSL since reinstatement. Hearing scheduled for November 8, 2007.
89. **Christopher S. Dunn v. OMSL**, No. 07-MSRC-107 (Hazard): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: ACTIVE** – Hearing scheduled for July 12, 2007. OMSL continued this matter until August 9, 2007. Settlement Agreement approved by the Commission on August 9, 2007. Probation of underground miner and temporary underground miner certificates for one year, submit a drug abuse assessment prior to reinstatement and drug testing every 30 days. Reinstatement pending Board approval.
90. **Ralph Sparks v. OMSL**, No. 07-MSRC-097 (Pikeville): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: ACTIVE** – Hearing scheduled for July 12, 2007. Settlement Agreement approved by the Commission on July 12, 2007. Probation of underground miner, surface miner and hoisting engineer certificates for one year, drug abuse assessment was not required because of Sparks' work and drug testing records established by his employer, drug testing twice every month for the first three (3) months of probationary period and every thirty days for remainder of probation. Board reinstated Sparks' certificates on July 26, 2007. On October 18, 2007, OMSL filed a Notice-Motion for Sanction. The drug testing contractor reported to the OMSL a positive drug test for Sparks. Hearing scheduled for November 8, 2007.
91. **Jarrod Sargent v. OMSL**, No. 07-MSRC-095 (Hazard): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Hearing scheduled for July 12, 2007. Settlement Agreement approved by the Commission on July 12, 2007. Probation of underground miner certificate for one year, submit a drug abuse assessment prior to reinstatement, drug testing once per week for first three (3) months of probationary period and drug testing every 30 days for remainder of probation. Board reinstated Sargent's certificate on August 23, 2007.
92. **Doyle E. Gay v. OMSL**, No. 07-MSRC-093 (Hazard): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Hearing scheduled for July 12, 2007. Gay failed to appear. Commission entered a Show Cause Order on July 12, 2007 for Gay to appear before the Commission on August 9, 2007. Commission requested Gay submit a drug abuse assessment prior to Commission approving a Settlement Agreement. Hearing has been continued to September 21, 2007. Settlement Agreement approved by the Commission on September 21, 2007. Probation of temporary surface and underground miner certificates for one year, submit a drug abuse assessment prior to reinstatement and drug testing every 30 days. Board reinstated Gay's certificates on September 27, 2007.
93. **Jeffery Slone v. OMSL**, No. 07-MSRC-090 (Hazard): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: ACTIVE** – Hearing scheduled for June 14, 2007. Commission suspended Slone's certificates for two months, after

suspension period and after Board reinstates certificates, certificates will be placed on probation for one year, Slone will need to enroll in and attend counseling for substance abuse and submit to drug testing every 30 days.

94. **Jesse Scott v. OMSL**, No. 07-MSRC-086 (Pikeville): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: ACTIVE** – Hearing scheduled for June 14, 2007. Settlement Agreement was approved by the Commission on June 14, 2007. Probation of underground miner and temporary surface miner certificates for one year, submit a drug abuse assessment prior to reinstatement and drug testing every 30 days. Commission requested that Scott be put on random drug testing by employer. Reinstatement pending Board approval.
95. **Raleigh Keith Hensley v. OMSL**, No. 07-MSRC-084 (Hazard): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: ACTIVE** – Hearing scheduled for June 14, 2007. Settlement Agreement was approved by the Commission on June 14, 2007. Probation of underground miner and gas detection certificates for one year, submit a drug abuse assessment prior to reinstatement and drug testing every 30 days. Reinstatement pending Board approval.
96. **OMSL v. Thomas Ken Ford**, No. 07-MSRC-081 (District Not Reported): Complaint filed May 1, 2007. Referral from Illinois DEP, based on Ford's April 11, 2003 felony conviction in federal district court. Mr. Ford plead guilty to the charges of willfully removing fuses from the vacuum container circuits of a transformer while acting as chief electrician at the Eagle Valley Mine in Illinois, and knowingly and willfully making a false and material statement about the matter to MSHA. Mr. Ford was sentenced to pay a monetary penalty, but jail time was probated. Based on the circumstances of the conviction that placed miners in imminent danger, OMSL filed a complaint for a one-year revocation of Ford's mine foreman and electrical worker certificates, and a two-year probation of his other certificates. **STATUS: CONCLUDED** – Probable Cause found on May 10, 2007. Commission approved Settlement Agreement on June 14, 2007.
97. **Jerry S. Sumner, Jr. v. OMSL**, No. 07-MSRC-074 (Hazard): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Hearing scheduled for May 10, 2007. Settlement Agreement approved by the Commission on May 10, 2007. Probation of underground miner certificate for one year, submit a drug abuse assessment prior to reinstatement and drug testing every 30 days. Board reinstated Sumner's certificate on June 28, 2007.
98. **James Cornett v. OMSL**, No. 07-MSRC-077 (Hazard): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: ACTIVE** – Hearing scheduled for May 10, 2007. Settlement Agreement approved by the Commission on May 10, 2007. Probation of underground miner certificate for one year, submit a drug abuse assessment prior to reinstatement and drug testing every 30 days. Reinstatement pending Board approval.
99. **Michael R. Sparks v. OMSL**, No. 07-MSRC-072 (Martin): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: ACTIVE** – Hearing scheduled for April 20, 2007. Settlement Agreement approved by the Commission on April 20, 2007. Probation of surface miner certificate for one year and drug testing every 30 days. Reinstatement pending Board approval.
100. **Michael Hannah v. OMSL**, No. 07-MSRC-067 (Pikeville): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: ACTIVE** – Hearing scheduled for April 20, 2007. Settlement agreement approved by the Commission on April 20, 2007. Probation of gas detection and surface miner certificate for one year, submit a drug abuse assessment prior to reinstatement and drug testing every 30 days. Received drug abuse assessment April 19, 2007. Reinstatement pending Board approval.

101. **OMSL v. Troy A. Collett**, No. 07-MSRC-064 (Harlan): Failed to appeal certification suspension due to reported violation of drug-free status. **STATUS: ACTIVE** – On March 21, 2007, OMSL filed Show Cause motion to revoke miner certificate(s). Hearing scheduled for April 20, 2007. Settlement Agreement approved by the Commission on April 20, 2007. Probation of underground miner and gas detection certificates for one year, submit drug abuse assessment prior to reinstatement and drug testing every 30 days. Reinstatement pending Board approval.
102. **OMSL V. Jessie W. Creech**, No. 07-MSRC-061 (Harlan): Failed to appeal certification suspension due to reported violation of drug-free status. **STATUS: ACTIVE** – On March 21, 2007, OMSL filed Show Cause motion to revoke miner certificate(s). Hearing scheduled for April 20, 2007. Settlement Agreement was approved by the Commission on April 20, 2007. Probation of underground miner, gas detection and belt examiner certificates for one year, submit a drug abuse assessment prior to reinstatement and drug testing every 30 days. Reinstatement pending Board approval.
103. **OMSL v. Floyd Doug Simpson, Paul R. Rigney, Jr., Samuel Brock and Cecil Seals**, No. 07-MSRC-044 (Harlan): Complaint filed February 22, 2007. MSHA referral based on federal inspection revealing numerous unsafe conditions/violations in the mine, including smoking materials belonging to miner Brock and foreman Simpson, roof bolter Rigney under an unsupported area, and inadequately supported roof at some locations. Foreman Simpson and Superintendent Seals were also cited. OMSL filed a complaint for one-year suspension of Simpson's underground mine foreman certificate, Seals' electrical worker certificate, and Rigney's and Brock's temporary underground miner certificates; and two-year probation of all other certificates. **STATUS: ACTIVE** – Probable Cause found on March 16, 2007. Evidentiary hearing scheduled for August 9, 2007. Neither Simpson, Rigney nor Rigney filed Answers to the Complaint and OMSL filed Motions for Default. The Commission granted the Motions against Rigney and Simpson at their regular meeting on May 10, 2007 and against Brock at its regular meeting on August 9, 2007. OMSL took the depositions of the MSHA inspectors in lieu of live testimony, and an evidentiary hearing against Seals was held on August 9, 2007.
104. **Robert F. Ellison v. OMSL**, No. 07-MSRC-052 (Hazard): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Hearing scheduled for April 20, 2007. Ellison requested more time to prepare his appeal. OMSL did not object. Hearing is continued for May 10, 2007. Settlement Agreement approved by the Commission on May 10, 2007. Suspension of surface miner certificate for 3 months, after suspension period and after Board reinstates certificate, certificate will be placed on probation for one year, attend counseling for alcohol abuse during probation period and submit to an alcohol test every 30 days. On September 27, 2007, the Board reinstated Ellison's certificate.
105. **Joshua James Ison v. OMSL**, No. 07-MSRC-051 (Pikeville): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – Hearing scheduled for April 20, 2007. Commission entered Show Cause Order April 20, 2007. Hearing scheduled for May 10, 2007. Motion to Continue was entered by the Commission on May 10, 2007. Hearing scheduled for June 14, 2007. Settlement Agreement was approved by the Commission on June 14, 2007. Probation of underground miner certificate for one year, submit a drug abuse assessment prior to Commission approving settlement and drug testing bi-weekly. Board reinstated Ison's certificate on August 23, 2007.
106. **Robert C. Larsen v. OMSL**, No. 07-MSRC-002 (District Not Reported): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: ACTIVE** – Failed to appear at February 8, 2007 hearing. Show Cause Order entered for March 16, 2007. Settlement Agreement was approved by the Commission on March 16, 2007. Probation of underground miner certificate for one year, submit a drug abuse assessment prior to reinstatement and drug testing every 30 days. Reinstatement pending Board approval.

107. **OMSL v. Gary Isaac Hogston**, No. 07-MSRC-033 (Pikeville): Complaint filed February 6, 2007. Subject: MSHA referral based on federal inspection revealing smoking materials on Hogston's person. KDMM filed a complaint for a one-year suspension of Hogston's temporary underground miner's certificate (#PE-0019-05) and a two-year probation of his temporary surface miner's certificate. **STATUS: CONCLUDED** – Probable Cause found on March 16, 2007. Evidentiary hearing scheduled for May 10, 2007. Mr. Hogston did not file an Answer to the Complaint, and OMSL filed a Motion for Default. Mr. Hogston did not attend the final prehearing conference, but did show up at the MSRC regular meeting held May 10, 2007. After some discussion with Hogston and OMSL representatives, OMSL and Hogston reached a settlement agreement. The Commission accepted the terms of the settlement agreement during the May 10, 2007 meeting. A written Settlement Agreement is being prepared. Commission accepted Settlement Agreement on June 14, 2007.
108. **OMSL v. Jason Maggard**, No. 07-MSRC-020 (District Not Reported): Motion for Show Cause filed by OMSL on January 25, 2007 as respondent failed to file appeal after October 13, 2006 suspension of his underground miner certification and gas detection certification. **STATUS: ACTIVE** – Respondent failed to appear at March 16, 2007 OMSL hearing. Commission ordered revocation of certifications at that time, and case was closed on April 10, 2007. However, respondent called on July 2, 2007, stating that he had been incarcerated at the time of the show cause proceeding and that he wished to enter into a Settlement Agreement. The file was reopened, and respondent is to present his case to the Commission at its November 8, 2007 meeting.
109. **OMSL v. Timothy Dean Lester**, No. 07-MSRC-018 (Pikeville): Inspection found 8 violations involving roof control plan and unsupported roof. Complaint filed on January 19, 2007, by OMSL requesting revocation of mine foreman's certificate for one year and suspension of underground miner, shot firer, MET, drill operator, and gas detection certificates for one year. **STATUS: ACTIVE** – Probable cause found by the Commission on February 8, 2007. Hearing scheduled for May 10, 2007. Settlement Agreement approved by the Commission on April 20, 2007. Probation of mine foreman certificate for one year, to be revoked on violations during probationary period and complete 8 hours of special safety training.
110. **Roy Lynn Hunt v. OMSL**, No. 06-MSRC-125 (Pikeville): Failed to appeal certification suspension due to reported violation of drug-free status (positive test). **STATUS: ACTIVE** – Did appear at show cause hearing on February 8, 2007. Settlement Agreement accepted by the Commission on February 8, 2007. Referred to Mining Board. Hunt has not provided drug abuse assessment or drug test for reinstatement, likely will be referred for revocation.
111. **OMSL v. Donald J. Hurt**, No. 07-MSRC-022 (District Not Reported): Failed to appeal certification suspension due to reported violation of drug-free status. **STATUS: CONCLUDED** – On January 25, 2007, OMSL filed a Motion for Show Cause Order. Hearing is scheduled for March 16, 2007. Hurt has entered into a Settlement Agreement with OMSL. Probation of underground miner's certificate for one year, continue to attend counseling sessions he is currently enrolled in until completion and drug testing every 30 days. Hurt has not provided drug abuse assessment or drug test. OMSL filed Motion for Show Cause and it is set for September 21, 2007. Hurt failed to appear. On September 21, 2007, the Commission entered an Order permanently revoking Hurt's certificate.
112. **Michael R. King v. OMSL**, No. 07-MSRC-015 (Pikeville): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: ACTIVE** – Settlement Agreement approved by the Commission on February 8, 2007. Probation of underground miner certificate for one year, submit drug abuse assessment prior to reinstatement and drug testing every 30 days. Reinstatement pending Board approval.
113. **Brian S. Bowen v. OMSL**, No. 06-MSRC-094 (Martin): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: ACTIVE** – Settlement

Agreement approved by the Commission on January 11, 2007. Probation of underground miner, gas detection and belt examiner certificates for one year and drug testing every 30 days. Reinstatement pending Board approval.

114. **Richard F. Bray v. OMSL**, No. 06-MSRC-070 (Barbourville): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: ACTIVE** – Failed to appear at hearing on December 14, 2006. Show Cause Order entered for January 11, 2007. Settlement Agreement was approved by the Commission on January 11, 2007. Probation of underground miner and gas detection certificates for one year and drug testing every 30 days. Reinstatement pending Board approval.
115. **Roger B. Tibbs**, No. 06-MSRC-071 (Pikeville): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: ACTIVE** – Settlement Agreement approved by Commission on November 9, 2006. Probation of certificate for one year and drug testing every 30 days. Reinstatement pending Board approval.
116. **OMSL v. Alger Jent, James Byrd, Michael Howard, Pat Childers**, No. 06-MSRC-073 (Martin): Complaint filed October 26, 2006, alleging 27 violations of mine safety laws. Found by inspections on September 13 and 14, 2004. Jent was the mine superintendent B King Coal Company, Inc., No. 1 Mine. Byrd was section foreman. Childers and Howard were chief electricians. OMSL seeks revocation of Jent's miner foreman certificate, probation of his miner certificates; revocation of Childers' mine foreman and electrical worker's certificates; revocation of Byrd's underground mine foreman certificate and suspension of his drill operator and shot firer certificates; and, probation of Howard's mine foreman and electrical worker's certificates. **STATUS: ACTIVE** – Probable cause found by the Commission on November 9, 2006. Hearing scheduled for May 10, 2007. On August 9, 2007, default order was entered against Jent revoking all certificates for a period of two years; order was entered dismissing Howard from the action; and, the matter was continued as to Byrd and Childers for settlement negotiations. Settlement Agreement with Byrd approved by the Commission on September 21, 2007. Probation of underground mine foreman, underground miner certificate, shot firer-conventional, shot firer-solid blasting and drill operator certificates for two years. Hearings scheduled for Childers and Jent on November 8, 2007.
117. **OMSL v. Lawrence Kendrick, Terry Sturgill and Nathan Sturgill**, No. 06-MSRC-074 (Martin): Inspection found smoking materials in the surface area above the mine. The Sturgills, to whom the materials belonged, have been cited and the foreman, Kendrick, was cited for failure to conduct a proper search. Complaint filed October 26, 2006, by OMSL requesting revocation of both Sturgills' underground (and Terry's gas detection) and of Kendrick's mine foreman's certificates for one year and suspension of Kendrick's remaining certificates for one year. **STATUS: ACTIVE** – The Commission found Probable Cause on November 9, 2006. Settlement Agreement with Kendrick accepted by the Commission by Order of January 17, 2007, providing for probation of mine foreman's certificate for one year, to be revoked on violations during the probationary period, with 8 hours of special safety training. Sturgills each had a Settlement Agreement but did not appear on January 11 or at a Show Cause Hearing on February 8, 2007. Sturgills had reported transportation difficulties, and Show Cause Hearing to be held on March 16, 2007. Kendrick completed special training on February 27, 2007. The Sturgills failed to appear before the Commission, and at the Hearing on March 16, 2007, an Order was entered by the Commission revoking their certificates. The Sturgills were placed on the docket for April 20, 2007, after indicating that they would seek reinstatement of their certificates and acceptance of their settlement agreements, but they did not appear.
118. **OMSL V. Riley C. Akers**, No. 06-MSRC-075 (Pikeville): Company's approved roof control plan allowed maximum continuous miner cuts of 20 feet; MSHA inspector found a crosscut cut 26-30 feet deep, which exposed miners to imminent danger of serious injury or death: Akers was the mine foreman and superintendent and operated the continuous miner. Complaint filed October 26, 2006, by OMSL requesting revocation of underground miner, shot firer, drill operator, first aid,

- and gas detection certificates for one year. **STATUS: ACTIVE** – The Commission found Probable Cause on November 9, 2006. Answer filed December 1, 2006. Hearing scheduled for January 11, 2007 was continued to April 20, 2007. Hearing continued to June 14, 2007, to allow for deposition of MSHA inspector on May 1, 2007.
119. **OMSL v. John Goins and Robert Griffin**, No. 06-MSRC-061 (Barbourville): Complaint filed October 2, 2006. This action was brought by OMSL requesting suspension of both Defendants' surface miner's certificates for one year. John Goins was operating a Volvo BM front end loader in the pit of an unlicensed surface coal mine. Robert Griffin was cited for operating a surface coal mine without a license, with no foreman or certified MET on site. **STATUS: CONCLUDED** – The Mine Safety Review Commission found Probable Cause on October 12, 2006. A Settlement Agreement between OMSL and Goins was entered and approved by the Commission on December 19, 2006. Mr. Goins' surface miner's certificate was placed on probation for one year. He was required to take eight (8) hours of special safety training, which he has completed. With regard to Griffin, the formal hearing was held on February 8, 2007. A Final Order was entered against Griffin on May 10, 2007. The Commission revoked Mr. Griffin's surface mine certificate for a period of one year. He is also required to take 8 hours of special safety training w/in 45 days of his application for recertification.
120. **Everett Lyons, Jr. v. OMSL**, No. 06-MSRC-048 (Hazard): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: ACTIVE** – Commission ordered certificates suspended until no sooner than November 16, 2006, if reinstated by the Board certificates will be probated for one year, drug testing every 30 days and a drug addiction assessment. Settlement Agreement approved by the Commission on January 11, 2007. Reinstatement pending Board approval.
121. **Christopher L. Brown v. OMSL**, No. 06-MSRC-056 (Harlan): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: ACTIVE** – Hearing continued to March, 2007. Settlement Agreement was approved by the Commission on March 16, 2007. Probation of temporary underground miner certificate for one year, submit a drug abuse assessment prior to reinstatement and drug testing every 30 days. Reinstatement pending Board approval.
122. **OMSL v. Harold David Mosley, Jeffrey McGuire and Alvin Noble**, No. 06-MSRC-032 (Martin): Complaint filed August 21, 2006. Agency action against the defendants for violations including improper storage of explosive material, inadequate pre-shift exams, electrical violations, mechanical violations, roof support violations and excessive coal dust. **STATUS: ACTIVE** – Probable cause was determined by the Commission on September 14, 2006. On October 12, 2006, the Commission granted the Cabinet's Default Motion for Mosley and Noble. Mosley's mine foreman certificate was suspended for two years. His mining instructors underground, gas detection, drill operators, electrical worker's, EMT, MET, shot firer solid blasting and shot firer conventional certificates were probated for two years. Further, Mosley shall take 8 hours of special training at the Martin District Office. Noble's mine foreman certificate was suspended for two years. His assistant mine foreman, first aid, gas detection, drill operator, electrical worker, MET, shot firer solid blasting and surface mine foreman certificates were probated for two years. Further, Noble shall take 8 hours of special training at the Martin District Office. The Commission approved a Settlement Agreement between OMSL and McGuire. McGuire's mine foreman certificate was permanently revoked. His drill operator, gas detection, shot firer conventional and shot firer solid blasting certificates were suspended for three years. Further, McGuire's electrical workers certificate was probated for four years. Mosley – Training Completed: **Yes – 12/01/06**. All of Noble's certificates were revoked by Order of the Commission on March 22, 2007 for failure to meet conditions of reinstatement contained in the Final Order of the Commission.
123. **OMSL v. William Gillis Dixon**, No. 06-MSRC-018 (Pikeville): Complaint filed July 25, 2006. This is a fatal accident case due to a roof fall. Three non-compliances were issued including damage to automated temporary roof support, failure to have temporary roof support within 500

feet of face as required in roof control plan and a certified mine foreman not being present when fatal accident occurred. **STATUS: ACTIVE** – Probable cause was determined by the Commission on August 10, 2006. Motion to Stay the Proceedings was filed on October 31, 2006. On November 2, 2006, hearing officer issued an order staying the proceedings.

124. **OMSL v. Gary Wayne Bentley**, No. 06-MSRC-017 (Harlan): Complaint filed July 17, 2006. This action was brought by OMSL requesting revocation of the Defendant's MET, underground coal miner and shot firer-conventional certificates. Mr. Bentley was the MET at H&D Mining, LLC Mine No. 3 when David Morris, Jr. was injured when he was pinned between the bucket of a ram car and the operator's compartment of the shuttle car. He subsequently died of his injuries. Mr. Bentley failed to follow appropriate standards of care in the management of Mr. Morris, failed to administer treatment in a responsible manner in accordance with his level of certification and failed to timely respond to an emergency, in violation of 805 KAR 7:080, Section 11. He also impeded the investigation by OMSL. **STATUS: ACTIVE** – The Commission found Probable Cause on August 10, 2006. The parties have agreed to settlement, however, the Commission denied the Motion to Approve Settlement Agreement. The decedent's widow has been allowed to intervene as amicus curiae for purposes of any penalty determination resulting from a formal hearing. A hearing has been scheduled for January 10, 2008.
125. **OMSL vs. Danny J. Ratliff, William D. Luke and Robert J. Hurley**, No. 06-MSRC-029 (Pikeville): Complaint filed August 17, 2006. This action was brought by OMSL requesting revocation of all three Defendants' underground mine foreman's certificates for one year and suspension of all of their remaining certificates for one year. All three were responsible for various violations of the Tri-Star Coal LLC's Mine No. 1's roof control plan that resulted in a roof fall that caused the death of David Chad Bolen. **STATUS: CONCLUDED** – The Commission found probable cause on September 14, 2006. The Hearing was scheduled for April 20, 2007. Prior to the hearing, Hurley and Ratliff agreed to a settlement. Settlement Agreements have been entered by the MSRC. The Final Order for Ratliff was entered by the MSRC on April 20, 2007. The Final Order for Hurley was entered on June 14, 2007. Luke did not appear and the Commission entered a Show Cause Order requiring him to appear May 10, 2007 to show cause as to why OMSL's request for sanctions should not be granted. Luke did not appear for the May 10, 2007 Show Cause hearing and a Final Order was entered against him on that day granting the relief requested by OMSL in it's Complaint.
126. **Paul B. Holbrook v. OMSL**, No. 06-MSRC-021: (Martin): Petition for appeal for certification suspension due to reported violation of drug-free status. **STATUS: ACTIVE** – Holbrook's surface miner certificate was suspended. Settlement agreement approved by Commission: One year probation with drug testing every sixty (60) days if accepted by Mining Board. Mining Board declined to reinstate certifications. Holbrook remains suspended.
127. **OMSL V. David Bevins**, No. 06-MSRC-014: (Pikeville): On March 13 2006, the U.S. Office of Mine Safety and Health Administration issued Citation No.7430536 for violation of smoking materials being in the mines. **STATUS: ACTIVE** – On April 17, 2006, OMSL filed a complaint requesting his underground miner's certificate, gas detection and surface miners certificate be revoked for an appropriate period of time. On May 11, 2006, the Commission found probable cause. On July 13, 2006, the Commission approved a settlement agreement probating his surface and underground certificate for 1 year, suspending his gas detection cert for 6 months and requiring 8 hours of specialized training. Training Completed: **YES – 8/30/06**.
128. **OMSL v. Jeff McGuire**, No. 06-MSRC-016: (Martin): On November 10th and 22nd, 2005 OMSL issued non-compliances for build-up of combustible dust, electrical/mechanical failure of scoops, failures at man-doors, beltline failures and a crack in the mine floor. **STATUS: ACTIVE** – On May 11, 2006, OMSL filed a complaint. On June 8, 2006, the Commission found probable cause. On July 13, 2006, the Commission approved a settlement agreement suspending his underground mine foreman's license for one year , requiring 8 hours special training and probating his shot

firers, electrical, drill operator and underground miners certificates for 1 year. Training Completed: **YES – 8/11/06.**

129. **OMSL v. Keith Collins, Ronald Bartley and James Hager**, No. 06-MSRC-008: (Pikeville): Agency action against named defendants for 66 violations including no foreman on site, untrained miners, fan stopped improperly, no firefighting equipment, no self-rescuers, electrical malfunctions and mechanical malfunctions. **STATUS: ACTIVE** – Probable cause determined by the Commission on April 13, 2006. On June 8, 2006 the Commission approved a settlement agreement with Collins probating his mine foreman's and electrical license for 18 months. A Final Order was entered by the Commission on July 13, 2006, approving a Settlement Agreement between OMSL and Ronald Bartley. Bartley's mine foreman, drill operator's, electrical workers, gas detection, MET and shot firer solid blasting certificates were probated for one year. Further Bartley has to complete 8 hours of training. On January 11, 2007, the Commission granted Mr. Hager's counsel's motion to withdraw as counsel. Trial involving Mr. Hager was conducted on January 11, 2007.
130. **OMSL v. Charles Manuel and Estill Johnson**, No. 06-MSRC-009: (Martin): Filed March 17, 2006. Pill found in Johnson's possession. Smoking material found underground. Electrical problems as well as brake problems were found on scoop. **STATUS: ACTIVE** – Probable cause determined by the Commission and trial is set for July 13, 2006. Defendants filed discovery request on April 19, 2006. OMSL moved to dismiss complaint. On June 8, 2006 the Commission granted OMSL's motion to dismiss complaint due to further investigation revealing the allegations not being substantiated.
131. **OMSL v. Gary Simpson, Shannon Hurt, Arvil Campbell and Tim Brock**, No. 06-MSRC-012: (Hazard): Filed April 14, 2006. Agency action against defendants for 22 violations. Electrical and mechanical malfunctions, no pre-shift exam, and not following roof control plan. **STATUS: ACTIVE** – Probable cause determined by the Commission on May 11, 2006. A Final Order was entered by the Commission on July 13, 2006, approving Settlement Agreement between OMSL and Gary Simpson. Simpson's underground mine foreman's certificate was probated for six months. A Final Order was entered by the Commission on July 13, 2006, approving Settlement Agreement between OMSL and Arvil Campbell. Campbell's underground mine foreman's certificate was probated for six months. Further Campbell has to take eight hours of specialized training at the Hazard Office. On July 13, 2006, the Commission granted OMSL's motion for default between OMSL and Shannon Hurt. Hurt's electrical worker's certificate was suspended for six months. Hurt's surface and underground miner's certificates were probated for one year. Further Hurt will be required to take eight hours of special training from OMSL's Hazard office. A Final Order was entered by the Commission on August 11, 2006, approving a Settlement Agreement between OMSL and Brock. Brock's mine foreman certificate was probated for six months. Further Brock will be required to take eight hours of special training from OMSL's Hazard office. Campbell – Training completed: **Yes – 6/30/06.** Hurt – Training completed: **Yes – 2/27/07.** Brock – Training completed: **Yes – 3/22/07.**
132. **OMSL v. Robert Smith**, No. 06-MSRC-013: (Hazard): Filed April 14, 2006. Agency action against defendant for 16 violations. Smith failed to properly conduct pre-shift exam resulting in serious non-fatal accident report, inadequate ventilation controls. **STATUS: ACTIVE** – Probable cause determined by the Commission on May 11, 2006. A Final Order was entered by the Commission on September 14, 2006, approving a Settlement Agreement between OMSL and Smith. Smith's mine foreman's certificate, gas detection certificate, shot fire solid blasting certificate, shot firer conventional certificate and drill operator certificate were revoked for two years. Smith's underground miner's certificate was probated for two years. Further Smith must take 8 hours of special training at the Hazard district office. Training completed: **Yes – 10/27/06.**
133. **OMSL v. Lonnie Moore & Gary Rutherford**, No. 06-MSRC-015: (Harlan): This action was brought against the mine superintendent and foreman for various violations arising from the Stillhouse Mining double fatality roof fall in August 2005. The violations pertain to failures to

adequately train personnel in the retreat mining plan and allowing work to continue under dangerous conditions. **STATUS: ACTIVE** – Probable cause determined by the Commission on May 11, 2006. On Motion of defendants case has been placed in abeyance pending a MSHA 110(c) investigation. Status report due August 6, 2007.

134. **OMSL v. Ray Lamb**, Docket No. 06-MSRC-002 (Harlan): Action brought by agency against foreman for three violations cited by MSHA. **STATUS: ACTIVE** – Seeking revocation and probation of certifications. Probable cause determination on March 9, 2006. On October 12, 2006, the Commission granted the Cabinet's Default Judgment. Lamb's underground mine foreman's certificate was revoked for two years, his underground mine shot firer's certificate was probated for two years and his underground miner's certificate was probated for two years. After Lamb's revocation period he will be required to retake and pass the Kentucky Underground Mine Foreman Examination. Further, Lamb shall take 8 hours of special safety training.
135. **OMSL v. Kevin R. Yonts and Sonny Ward**, Docket No. 06-MSRC-003 (Martin) filed: 2/23/06. Subject: KDMM inspector conducted an investigation of underground coal mine, followed by two other inspections within the next few weeks. Numerous unsafe conditions/violations were found, many of which placed miners in imminent danger of death or serious injury; e.g., cutting machine with exposed wiring, scoops with inoperable methane monitors and parking brakes, no test holes, absence or damaged roof bolts, cable crossing conveyor without conduit, failure to properly store flammable materials, producing coal over a closure order, etc. The violations were the responsibility of the superintendent Yonts and section foreman Ward. **STATUS: ACTIVE** - Probable cause found March 9, 2006. Settlement Agreements reached were reached with Yonts and Ward prior to the evidentiary hearing scheduled in December 2006. The Settlement Agreements were accepted by the Commission on December 14, 2006. Yonts completed his safety training as agreed. Ward did not complete the safety training, and OMSL filed a Motion with the Commission to revoke Ward's certificates. The Commission heard the Motion at its regular May 10, 2007 meeting and granted the Motion. The Order revoking Ward's certificates was entered May 10, 2007.
136. **OMSL v. Phillip Short and Billy Ray McCoy**, No. 06-MSRC-005 (Pikeville): Agency action against named defendants for violations relating to serious electrical accident. Seeking suspensions and probation of certificates. **STATUS: ACTIVE** – Probable cause found on March 9, 2006. Answer filed. Hearing originally set for May 11, 2006. Hearing continued – status report was filed. Held in abeyance. Expect procedural order from Commission to be issued in March. Discovery due April 15, 2007. Hearing scheduled for August, 2007. Hearing conducted on August 9, 2007. Awaiting decision from the Commission.
137. **OMSL v Rick Fouts**, No. 06-MSRC-006 (Hazard): Action brought by agency against foreman for method of mining violation involving fatality. **STATUS: ACTIVE** – Seeking suspension of foreman certification and probation of other certifications. Probable cause determination on March 9, 2006. A Final Order was entered by the Commission on September 14, 2006, approving a Settlement Agreement between OMSL and Fouts. Fouts' underground mine foreman's certificate was suspended for one year. Fouts' underground miner's certificate, EMT certificate, gas detection certificate, and shot firer certification were put on probation for one year. Further Fouts will be required to take 8 hours of special training from OMSL at its Hazard district office.
138. **OMSL v. Alger B. Jent, Jerry D. Morgan & James E. Byrd**, Docket No. 05-MSRC-005 filed: 3/9/05subject: OMSL inspectors conducted a High Impact Safety Awareness ("HISA") inspection of underground coal mine in response to complaint; numerous unsafe conditions/violations were found, including 7 which placed miners in imminent danger of serious injury or death; e.g., an adequate pre-shift examination for hazardous conditions had not been performed; a crosscut was mined into an unsupported entry; extended continuous miner cuts had not been roof-bolted; various other areas of the mine had unsupported mine roof; miners had worked under unsupported roof; electrical circuits were "bridged out", thus defeating a critical safety feature;

cigarette butts were found underground **STATUS: ACTIVE** –MSRC found probable cause against all defendants on 4/14/05; MSRC approved OMSL's settlement agreement with Morgan: electrician's certificate placed on probation for one year, effective 3/23/05; must take electrical training from OMSL's chief electrical inspector; must re-take and pass Kentucky electrical examination within 120 days or electrical card will be suspended until he passes exam. Settlement Agreement approved by the Commission on September 14, 2006. Jerry Morgan – Training completed – **YES**. Passed Exam – **4/26/06**. James Byrd – passed exam - **2/23/06**.

139. **OMSL v. Hobert Hoskins & Rodney Morgan**, Docket No. 05-MSRC-007 filed: 4/8/05 subject: company's approved roof control plan allowed maximum continuous miner cuts of 20 feet; MSHA inspectors found a crosscut cut 43 feet deep, which exposed miners to imminent danger of serious injury or death; Hoskins was the section foreman and Morgan operated the continuous miner; **STATUS: ACTIVE** – MSRC found probable cause against both defendants on 4/14/05; OMSL has entered into settlement agreement with Morgan approved by the Commission on November 11, 2005, wherein his underground miner's certificate was probated for one year from that date; the Commission entered a default judgment against Hoskins on November 11, 2005 that is currently on appeal to Franklin Circuit Court. Hobert Hoskins – Suspension completed: **Yes – 1/9/06**
140. **OMSL v. Homer Sams, Lonnie Rice, Delmas Jackson & Floyd Hibbard**, No. 05-MSRC-009 (Barbourville): Electrical inspections revealed numerous unsafe conditions/violations in the Century Operations No. 4 Mine. Most of the more than twenty (20) violations involved improper alterations of circuits that disabled important safety equipment. **STATUS: ACTIVE** – Probable cause determined on September 8, 2005. Answers filed by Respondents. Settlement terms have been proposed without resolution. Hearing on Motion for Approval of Settlement Agreement for Sams and Jackson is to be held on August 10, 2006. Motion by respondents counsel to withdraw as counsel of record for Rice and Hibbard was granted on July 13, 2006. Evidentiary Hearing for Rice and Hibbard set for September 14, 2006. Motions to withdraw and substitute counsel for all respondents granted by Commission. Settlement agreement hearing taken off the docket, but still under submission. Settlement Agreements approved for all respondents on December 14, 2006. Lonnie Rice – probation of certificates for six months with special training. Homer Sams and Delmas Jackson – probation of certificates for 12 months with special training. Floyd Hibbard – probation of certificates for 24 months with condition that he is not allowed to supervise during probation and special training. Homer Sams – Training completed: **Yes – 2/27/07**. Floyd Hibbard – Training completed: **Yes – 2/27/07**.
141. **OMSL v. Darrell Banks, Onis R. Smith & Conley Horn**, No. 05-MSRC-010 (Martin): Referral of case from MSHA. Inspection by MSHA found smoking materials in the area of active mining. Those miners to whom the materials belonged have been cited and the foreman was cited for failure to conduct a proper search. **STATUS: ACTIVE** – Probable cause determined on September 8, 2005. Answers filed by respondents. The case is being held in abeyance pending the conclusion of a federal investigation. Status report due August 6, 2007.
142. **OMSL v. Simon Ratliff**, Docket No. 05-MSRC-004 filed: February 24, 2005 subject: mine superintendent, whose underground mine foreman's certificate was on probation for previous offense (see No. 03-MSRC-008) committed numerous violations: he required miners under his supervision to work under unsafe conditions (no brakes on equipment; ATRS on roof bolting machine would not reach mine roof); discharged 4 miners for making safety complaints; after miners were reinstated, he discharged them again for filing safety discrimination complaints with MSHA; falsified preshift examination record; attempted to impede federal investigation by instructing miner to lie to MSHA investigators; and repeatedly violated the terms of his probation from prior case **STATUS: ACTIVE** – MSRC found probable cause on April 14, 2005; MSRC allowed three of the miners discharged by Ratliff to intervene on a limited basis. Trial held on March 9, 2006. Order entered June 8, 2006. Underground Miner's certification probated one year. Underground Mine Foreman certificate revoked for two years, with requirement to retake

and pass the mine foreman's exam. An Appeal of the Commission's Order was filed in Franklin Circuit Court July 10, 2006.

143. **OMSL v. Willie Sizemore, Jimmy Morgan and Floyd Hibbard**, No. 04-MSRC-002 (Barbourville): Mine superintendent and two section foremen for mine subjected to HISA inspection were held responsible for numerous violations found during the inspection and a follow-up inspection. **STATUS: ACTIVE** – Morgan and Hibbard entered settlement agreements for suspension, probation and retesting. Hearing for Sizemore was held July 14, 2005. Commission entered final order on September 8, 2005 and ordered suspension of foreman's card and suspension of miner's card for seven (7) days, along with retraining and retesting requirements. Sizemore has filed an appeal of the Commission's finding in Franklin Circuit Court. He alleges that the order is unsupported and that the statutes and regulations are unconstitutional. Motion to dismiss filed by Commission, answer filed by OMSL. Jimmy Morgan – Suspension completed: **Yes - 9/21/04**. Training completed: **Yes – 5/24 & 5/25/04**. Floyd Hibbard – Probation completed: **Yes – 3/16/05**. Training Completed: **Yes – 3/31/06**.